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JS-6



Attorneys for the Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

R. ALEXANDER ACOSTA,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

) Case No. 2:18-cv-03630 SJO (JPRx)

Castle Recycling Corp., doing business as
Venus Recycling;
Adrian Barba Ramirez, individually, and
doing business as Star Recycling;
Ivan Santos Molina, individually;

**[Proposed] CONSENT
JUDGMENT AND ORDER**

Defendants.

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Secretary”) and Defendants, Castle Recycling Corp., Adrian Barba Ramirez, and Ivan Santos Molina (collectively “Defendants”), have agreed to resolve the matters in controversy in this civil action and consent to the entry of this Consent Judgment in accordance herewith:

1 A. The Secretary has filed a Complaint alleging that Defendants violated
2 provisions of sections 7, 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of
3 1938, as amended (“FLSA”), 29 U.S.C. §§ 207, 211(c), 215(a)(2) and 215(a)(5) by: (1)
4 scheduling employees to work for more than forty hours per week without compensating
5 said employees for time worked in excess of 40 hours per week at rates not less than one
6 and one-half times the regular rates at which they were employed; and (2) failing to
7 maintain and preserve records to show adequately and accurately, among other things,
8 the hours worked each workday and the total hours worked each workweek.

9 B. Defendants waive issuance and service of process, and waive their right to
10 answer and any present any defenses to the Secretary’s Complaint.

11 C. The Secretary and Defendants waive Findings of Fact and Conclusions of
12 Law, and agree to the entry of this Consent Judgment in settlement of this action,
13 without further contest.

14 D. Defendants admit that the Court has jurisdiction over the parties and subject
15 matter of this civil action and that venue lies in the Central District of California.

16 E. Defendant Castle Recycling Corp. is doing business as Venus Recycling
17 and Defendant Adrian Barba Ramirez is doing business as Star Recycling.

18 F. Defendants understand and agree that demanding or accepting any of the
19 funds due employees under this Judgment or threatening any employee or retaliating
20 against any employee for accepting money due under this Judgment or for exercising
21 any of their rights under the FLSA is specifically prohibited by this Judgment and may
22 subject the Defendants to equitable and legal damages, including punitive damages and
23 civil contempt.

24 G. Defendants acknowledge that Defendants and any individual or entity
25 acting on their behalf or at their direction (including but not limited to managers or
26 supervisors at Defendants’ recycling facilities) have notice of, and understand, the
27 provisions of this Consent Judgment.

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INJUNCTION

It is therefore, upon motion of the attorneys for the Secretary, and for cause shown,

ORDERED, ADJUDGED, AND DECREED that the Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this order (by personal service or otherwise) be, and hereby are, permanently enjoined and restrained from violating the provisions of Sections 15(a)(2) and 15(a)(5) of the FLSA, 29 U.S.C. §§ 215(a)(2) and 215(a)(5), in any of the following manners:

1. Defendants shall not, contrary to FLSA § 7, 29 U.S.C. § 207, employ any employee who in any workweek is engaged in commerce, within the meaning of the FLSA, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of FLSA § 3(s), for any workweek longer than 40 hours unless such employee receives compensation for his or her employment in excess of 40 hours in such workweek at a rate not less than one and one-half times the regular rate at which he or she is employed.

2. Defendants shall not fail or refuse to aggregate the hours of employees who work at Star Recycling and Venus Recycling in the same workweek for purposes of computing overtime pay due if they jointly employ workers or if they operate as a single enterprise.

3. Defendants shall not fail to make, keep, preserve, and make available to authorized agents of the Secretary for inspection, transcription, and/or copying, upon their demand for such access, records of employees and records of the wages, hours, and other conditions and practices of employment maintained, as prescribed by regulations issued, and from time to time amended, pursuant to FLSA §§ 11(c) and 15(a)(5), 29 U.S.C. §§ 211(c) and 215(a)(5) and the implementing regulations found in Title 29, Code of Federal Regulations, Part 516.

III

1 4. Within 10 days of the entry of this Judgment Defendants shall supply all of
2 their employees at the recycling facilities with copies of the attached Exhibit B, which
3 summarizes, in English and Spanish, terms of this Judgment and the employees' rights
4 under the FLSA. In addition, Defendants shall provide copies of Exhibit B to any new
5 hires. This provision shall be in effect for a period of two years from the date of entry
6 of this Judgment by the Court.

MONIES DUE

8 5. IT IS FURTHER ORDERED AND ADJUDGED that Defendants, jointly
9 and severally, shall not continue to withhold the payment of \$31,365.30 in overtime pay
10 hereby found to be due under the FLSA to ten employees, as a result of their
11 employment by Defendants during the period of October 27, 2014 through October 27,
12 2017 (“back wage accrual period”) as set forth in the attached Exhibit A, showing the
13 name of each employee and listing on the same line the gross back wage amount due the
14 employee and the period covered by the Consent Judgment.

15 6. The plaintiff shall also have and recover from the defendants, jointly and
16 severally, the additional amount of \$31,365.30 as liquidated damages hereby found to be
17 due under the FLSA.

PAYMENT

19 7. To accomplish the requirements of Paragraphs 5 and 6, Defendants shall
20 deliver to the Wage and Hour Division, United States Department of Labor, 915
21 Wilshire Blvd, Suite 960, Los Angeles, CA 90017, addressed to Kimchi Bui, District
22 Director, the following:

23 a. Within ten (10) days of the Court's approval of this Consent
24 Judgment, Defendants shall deliver to the Wage and Hour Division, United States
25 Department of Labor, Attn: District Director Kimchi Bui, 915 Wilshire Blvd,
26 Suite 960, Los Angeles, CA 90017, or Bui.Kimchi@dol.gov, a schedule
27 containing: (1) the employer's name, employer identification number(s), employer
28 addresses and telephone numbers, and (2) for each employee listed in the attached

1 Exhibit B, if known, the employee's last known home address, email address,
2 Social Security number, home telephone number, and mobile telephone number.

3 b. Within ten (10) days of the Court's approval of this Consent Judgment,
4 Defendants shall deliver to the Secretary a check for full payment of the liquidated
5 damages payable to the order of the "Wage & Hour Div., Labor." The check shall
6 be for \$31,365.30, and shall have the words "CS-LDs" written thereon. All
7 checks must be sent by U.S. Mail or hand delivered to:

8 Attn: District Director Kimchi Bui
9 U.S. Department of Labor
10 Wage Hour Division,
11 915 Wilshire Blvd, Suite 960
12 Los Angeles, CA 90017

13 c. Beginning on June 1, 2018 and continuing thereafter each month (on
14 the first of the month) for four consecutive months, Defendants shall make the
15 payments toward back wages owed under this Order, by delivering a monthly
16 check in the amount of \$5,227.55 as set forth in the attached Exhibit "C" and
17 made payable to the order of the "Wage & Hour Div., Labor" with the words "CS-
18 BWs" written thereon and delivering it to the address above. Defendants shall
19 refer to the attached Exhibit C for the amounts and due dates of each of the six
20 monthly payments.

21 d. On November 1, 2018, Defendants shall deliver to the Secretary two
22 checks, both payable to the order of "Wage & Hour Div., Labor" and delivered to
23 the address above. The first check, for the final back wage payment owed, shall
24 be for \$5,227.55 and shall have the words "CS-BWs" written thereon. The second
25 check, for payment of the civil money penalty assessed against the defendants for
26 overtime pay violations, shall be for \$2,748.00 and shall have the words
27 "OT/CMP" written thereon.

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1 e. All checks shall be accompanied by a letter identifying the case name
2 as Acosta v. Castle Recycling Corp., et. al. and include the employers' tax
3 identification number.

4 8. The Secretary shall allocate and distribute the monies paid by Defendants
5 under this Judgment to the employees identified in Exhibit A attached hereto or their
6 estates if necessary, in his sole discretion. The Secretary shall make the required legal
7 deductions for the employee's portion of Social Security and federal income tax
8 withholding, and remit these amounts to the appropriate government agencies. Any
9 money not distributed to employees within a period of three years from the date of the
10 Secretary's receipt of a payment, because of an inability to locate the proper persons or
11 because of their refusal to accept it, shall be then deposited in the Treasury of the United
12 States as miscellaneous receipts pursuant to 29 U.S.C. § 216(c).

13 9. Defendants, their officers, agents, servants, and employees and those persons
14 in active concert or participation with them, shall not in any way directly or indirectly,
15 demand, require or accept any of the back wages or liquidated damages from any of the
16 employees listed on the attached Exhibit A. Defendants shall not threaten or imply that
17 adverse action will be taken against any employee because of the employee's receipt of
18 funds due under this Judgment. Violation of this paragraph may subject the defendants
19 to equitable and legal damages, including punitive damages and civil contempt.

20 10. Defendants, their officers, agents, servants, and employees and those persons
21 in active concert or participation with them, shall not in any way violate Sections 11(a)
22 or 15(a)(3) of the FLSA, 29 U.S.C. §§ 211(a) and 215(a)(3). Defendants shall not
23 terminate, threaten to terminate, or imply that any employee will be terminated, reduce
24 the work hours, threaten to reduce the work hours, or imply that work hours will be
25 reduced, or retaliate or discriminate against any employee in any other way because the
26 employee has complained about violations of the FLSA, or because Defendants believe
27 the employee has complained to the Secretary or cooperated in any way with an
28 investigation by the Secretary.

1 IT IS FURTHER ORDERED that the filing, pursuit, and/or resolution of this
2 proceeding with the entry of this Judgment shall not act as or be asserted as a bar to any
3 action under FLSA§ 16(b), 29 U.S.C. § 216(b), as to any employee not named on the
4 attached Exhibit A nor as to any employee named on the attached Exhibit A for any
5 period not specified therein; and,

6 IT IS FURTHER ORDERED that each party shall bear its own fees and other
7 expenses incurred by such party in connection with any stage of this proceeding,
8 including but not limited to attorneys' fees, which may be available under the Equal
9 Access to Justice Act, as amended; and,

10 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action
11 for purposes of enforcing compliance with the terms of this Consent Judgment.

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14 Dated: May 7, 2018.



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16 S. James Otero
17 United States District Judge
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1 For the Defendants:

2 The Defendants consent to the entry of
3 this Judgment, and waive notice by the
4 Clerk of Court:

5 For Adrian Barba Ramirez, d/b/a Star Recycling

6 By: _____

7 Adrian Barba Ramirez, Individually

8 Date

9 For Castle Recycling Corp., d/b/a Venus Recycling

10 By: _____

11 Ivan Santos Molina

12 Date

13 Its: Owner

14 For Ivan Santos Molina

15 By: _____

16 Ivan Santos Molina, Individually

17 Date

1 Attorney for Defendants

2 Jonathan S. Vick, Esq.

3 Approved as to Form only.

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7
8 Jonathan S. Vick, Esq.
9 Atkinson, Andelson, Loya, Ruud & Romo
10 12800 Center Court Drive
11 Suite 300
12 Cerritos, California 90703
13 (562) 653-3200

14 Date

1 For the Plaintiff:

2
3 KATE S. O'SCANNLAIN
4 Solicitor of Labor

5 JANET M. HEROLD
6 Regional Solicitor

7 DANIEL CHASEK
8 Associate Regional Solicitor

9 ANDREW J. SCHULTZ
10 Senior Trial Attorney

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12 NISHA PAREKH
13 Trial Attorney

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15 Attorneys for the Plaintiff
16 U.S. Department of Labor

17 Dated:
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EXHIBIT A

First Name	Last Name	Period Covered	Total Back Wages	Total Liquidated Damages	Total Due
Rigoberto	Carranza	05/03/15 - 11/08/15	\$ 1,192.05	\$ 1,192.05	\$ 2,384.10
David	Cifuentes	08/09/15 - 01/15/17	\$ 5,479.63	\$ 5,479.63	\$ 10,959.26
Jorge	Lopez-Aguilar	10/27/14 - 12/28/14	\$ 443.02	\$ 443.02	\$ 886.04
Gabino	Morales	02/08/15 - 02/05/17	\$ 3,540.65	\$ 3,540.65	\$ 7,081.30
Marvin	Orellana	10/27/14 - 01/15/17	\$ 6,022.39	\$ 6,022.39	\$ 12,044.78
Miguel	Orozco	10/27/14 - 02/05/17	\$ 7,790.58	\$ 7,790.58	\$ 15,581.16
Jose	Orozco	02/08/15 - 01/15/17	\$ 5,201.36	\$ 5,201.36	\$ 10,402.72
Juan	Ramirez	10/27/14 - 12/28/14	\$ 163.86	\$ 163.86	\$ 327.72
Enrique "Marcos"	Valladares	10/27/14 - 01/22/17	\$ 1,088.74	\$ 1,088.74	\$ 2,177.48
Oscar	Zuniga Caseres	10/27/14 - 07/05/15	\$ 443.02	\$ 443.02	\$ 886.04
TOTAL			\$ 31,365.30	\$ 31,365.30	\$ 62,730.60

1 EXHIBIT B

2 **LEGAL NOTICE TO ALL EMPLOYEES**

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4 To resolve a lawsuit brought by the Department of Labor, the United
5 States District Court entered an Order forbidding Castle Recycling, (doing
6 business as Venus Recycling), Mr. Ivan Santos Molina, and Mr. Adrian
7 Barba Ramirez (doing business as Star Recycling) from violating the
8 minimum wage and overtime requirements of the Fair Labor Standards Act.
9
10 All employees who work in this establishment can help the employer not to
11 violate the Court's Order. **If you think you are not being paid in
12 accordance with the law, call the U.S. Department of Labor, Wage and
13 Hour Division, at (213) 894-6375. Your name will be kept confidential.**
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16 The Fair Labor Standards Act requires all employers to pay all
17 employees minimum wage for all hours worked. In addition, employees
18 must be paid overtime, at a rate of time and one half times their hourly rate,
19 for all hours worked over 40 in a workweek. Employees earning hourly
20 wages are entitled to overtime when they work over 40 hours.
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23 All employees who are on the premises during business hours and are
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1 available to work must be punched in on the time clock and must be paid for
2 this time. Meal breaks of at least 30 minutes during which the employee is
3 completely free from work are exempted from this requirement.

5 **The Fair Labor Standards Act** makes it illegal for employers to
6 retaliate against employees who complain to the employer or Department of
7 Labor about their pay or work hours.
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NOTICIA LEGAL A TODOS LOS EMPLEADOS

Para resolver una demanda presentada por el Departamento de Trabajo, el Tribunal Distrito de los Estados Unidos emitió una Orden prohibiendo Castle Recycling, (que opera como Venus Recycling), Mr. Ivan Santos Molina, and Mr. Adrian Barba Ramirez (quién opera como Star Recycling) de violar el salario mínimo, los requisitos de las horas del sobre tiempo, las provisiones de investigación, y las provisiones contra la represalia de La Ley De Normas Justas De Trabajo. Todos los empleados que trabajan en este establecimiento pueden ayudar al empleador a no violar la Orden del Tribunal. **Si usted piensa que no le están pagando de acuerdo con la ley, llame al Sección de Horas y Sueldos del Departamento de Trabajo de los Estados Unidos a (213) 894-6375 y su nombre se mantendrá confidencial.**

La Ley De Norma Justas De Trabajo exige que todos los empleados deban ser pagados el sueldo mínimo por todas las horas trabajadas. Además, los empleados deban ser pagados el sobretiempo, a tiempo y medio de su tasa del pago regular, por todas las horas trabajadas en exceso de 40 en una semana laboral.

1 Todos los empleados que están en el establecimiento durante el horario
2 laboral del negocio y están disponibles para trabajar deben estar ponchados
3
4 en el reloj y deben ser pagados por este tiempo. Descansos para comer por lo
5 menos de 30 minutos y que están completamente libre del trabajo no requiere
6 ser pagados.
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9 La Ley De Normas Justas De Trabajo y la Orden emitida por el
10 Tribunal Distrito de los Estados Unidos han prohibido represalias contra
11
12 cualquier empleado que se queja de su pago o horas de trabajo.
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3 EXHIBIT C
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Payment No.	Due Date	Total Amount Due	Payment Type
Down Payment	10 days after Court's Approval of Consent Judgment	\$31,365.30	Liquidated Damages
1	6/1/2018	\$5,227.55	Back Wages
2	7/1/2018	\$5,227.55	Back Wages
3	8/1/2018	\$5,227.55	Back Wages
4	9/1/2018	\$5,227.55	Back Wages
5	10/1/2018	\$5,227.55	Back Wages
6	11/1/2018	\$5,227.55	Back Wages
6	11/1/2018	\$2,748.00	CMPs
	TOTAL:	\$65,478.60	